

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 RONALD WILLIAMS, JANN WILLIAMS, )
4 )
5 Plaintiffs, )
6 vs. )
7 NATIONAL DEFAULT SERVICING CORP. )
8 et al., )
9 Defendants. )

Case No.: 2:16-cv-1860-GMN-NJK

ORDER

10 Pending before the Court are two Motions to Dismiss (ECF Nos. 12, 14), one filed by
11 Defendants National Default Servicing Corporation ("NDSC"), Michael A Bosco, Wendy Van
12 Luven, and Carmen Navejas (collectively, "NDSC Defendants"), and one filed by Duke
13 Partners II, LLC ("Duke Partners") (NDSC Defendants and Duke Partners collectively,
14 "Defendants"). Also pending before the Court are many motions filed by pro se Plaintiffs
15 Ronald and Jann Williams ("Plaintiffs").<sup>1</sup> (See ECF Nos. 35, 39, 55, 56, 72).<sup>2</sup> Duke Partners
16 has also filed a Motion for Sanctions (ECF No. 42) and Motion for Finding of Vexatious
17 Litigants (ECF No. 60). All of these motions are fully briefed.<sup>3</sup>

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20 <sup>1</sup> In light of Plaintiffs' status as pro se litigants, the Court has liberally construed their filings, holding them to
standards less stringent than formal pleadings drafted by attorneys. See Erickson v. Pardus, 551 U.S. 89, 94
(2007).

21 <sup>2</sup> Included in these motions are Plaintiffs' Motions to Reconsider (ECF Nos. 56, 72) the Court's Orders (ECF
22 Nos. 52, 70). "[A] motion for reconsideration should not be granted, absent highly unusual circumstances."
23 Carroll v. Nakatani, 342 F.3d 934, 945 (9th Cir. 2003) (citation omitted). Reconsideration is appropriate where:
24 (1) the court is presented with newly discovered evidence, (2) the court committed clear error or the initial
decision was manifestly unjust, or (3) if there is an intervening change in controlling law. School Dist. No. 11,
Multnomah Cty. v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993). Having reviewed both Motions, the Court
25 finds that Plaintiffs have not provided any basis for reconsideration; rather, they merely reiterate their prior
arguments. Accordingly, the Court denies Plaintiffs' Motions to Reconsider.

<sup>3</sup> The docket in this case includes other related pending motions, too, such as Plaintiffs' Motion for Leave to File
Sur-Reply (ECF No. 20) and Motion to Extend Time (ECF No. 27), and Duke Partners' Motions to Strike

1 Also pending before the Court is Duke Partners' Emergency Ex Parte Motion for  
2 Temporary Restraining Order ("TRO"). (ECF No. 75).

3 **I. BACKGROUND**

4 This action arises out of the foreclosure sale of real property located at 258 Bonnie  
5 Claire Court, Henderson, Nevada 89074 (the "Property"). (Compl. ¶ 17, ECF No. 1). On  
6 October 25, 2005, Plaintiffs<sup>4</sup> obtained a loan in the amount of \$332,500.00 from Washington  
7 Mutual Bank, FA ("WMB") that was secured by a Deed of Trust on the Property. (Deed of  
8 Trust, Ex. 2 to Duke Partners MTD, ECF No. 14-2).<sup>5</sup> The Deed of Trust named WMB as the  
9 beneficiary and California Reconveyance Company as the trustee. (*Id.*). On May 2, 2006,  
10 Plaintiffs obtained a Home Equity Line of Credit in the amount of \$47,344.75 from GE Money  
11 Bank, also secured by a Deed of Trust on the Property. (Second Deed of Trust, Ex. 3 to Duke  
12 Partners MTD, ECF No. 14-3).

13 On October 22, 2009, California Reconveyance Company Recorded a Notice of Default  
14 and Election to Sell. (Ex. 5 to Duke Partners MTD, ECF No. 14-5). Plaintiffs participated in  
15 the Nevada Foreclosure Mediation Program and entered into an agreement to modify their loan,  
16 but Plaintiffs subsequently rescinded the agreement. (Ex. 6–7 to Duke Partners MTD, ECF No.  
17 14-6–14-7). On January 15, 2010, Plaintiffs filed a Verified Petition for Judicial Review by the  
18 Eight Judicial District Court for Clark County, Nevada ("Nevada State Court"), which upheld

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19 Plaintiffs' filings (*see* ECF Nos. 25, 64). To the extent that any of these motions relate to the parties' concurrent  
20 Unlawful Detainer Action in Justice Court, any such motion is denied because that action is not currently  
21 pending before this Court. (*See* Order on Prelim. Inj. at 1 n.2, ECF No. 52). As the Court has already explained,  
22 it will not intercede in the parties' Justice Court action. (*See id.*); (Order on Ex Parte Mot., ECF No. 70).

23 <sup>4</sup> Originally, only Ronald Williams was on the loan. (Deed of Trust, Ex. 2 to Duke Partners MTD, ECF No. 14-  
24 2). However, on January 26, 2007, Ronald Williams recorded a Grant, Bargain, and Sale Deed that conveyed the  
25 Property to himself and Jann Williams as joint tenants. (Ex. 4 to Duke Partners MTD, ECF No. 14-4).

<sup>5</sup> The Court may take judicial notice of the publicly recorded documents attached to the Motions to Dismiss,  
which are all recorded in the Clark County Recorder's office. *See also Mack v. S. Bay Beer Distrib.*, 798 F.2d  
1279, 1282 (9th Cir. 1986) (recognizing judicial notice of publicly recorded documents). While some of the  
documents are also attached to the Complaint, NDSC's Motion to Dismiss, and other filed documents, the Court  
will cite to Duke Partners' Motion to Dismiss, which sets the documents out in the clearest manner. (*See* ECF  
No. 14).

1 the Foreclosure Mediation and allowed the foreclosure to proceed. (Ex. 8–9 to Duke Partners  
2 MTD, ECF No. 14-8–14-9). Plaintiffs then filed a Petition for Writ of Mandamus with the  
3 Nevada Supreme Court, which was denied on May 7, 2010, on the procedural grounds that  
4 Plaintiffs should have filed an appeal, not a Petition for Writ of Mandamus. (Ex. 10–11 to Duke  
5 Partners MTD, ECF No. 14:10–14-11).

6 On January 27, 2010, Plaintiffs filed a Complaint in this Court against JPMorgan Chase  
7 Bank, N.A. (“Chase”), among other defendants, alleging claims for violation of the Fair Debt  
8 Collection Practices Act under 15 U.S.C. § 1692a (the “FDCPA”), fraudulent misrepresentation  
9 and failure to disclose, and unjust enrichment. (*See Williams v. JPMorgan Chase Bank, N.A.*,  
10 Case No. 2:10-cv-0118-PMP-PAL (D. Nev. 2010)). On April 5, 2010, the Court dismissed  
11 Plaintiffs’ case for failure to state a claim, explaining that Plaintiffs’ allegations failed to  
12 demonstrate that defendants were debt collectors under the FDCPA, and “it appears [on] the  
13 face of the Complaint that the [defendants] are simply pursuing recovery of monies under an  
14 express written contract.” (Order, *Williams*, Case No. 2:10-cv-0118-PMP-PAL (D. Nev. April  
15 5, 2010), ECF No. 44). On November 2, 2011, this Order was affirmed by the Ninth Circuit.  
16 (*See Memorandum of USCA, Ninth Circuit, Williams*, Case No. 2:10-cv-0118-PMP-PAL (D.  
17 Nev. November 2, 2011), ECF No. 69).

18 On September 26, 2012, a Substitution of Trustee was recorded on the Property, making  
19 NDSC the new Trustee. (Ex. 15 to Duke Partners MTD, ECF No. 14-15). On February 11,  
20 2014, NDSC filed a Notice of Rescission of Notice of Default and Election to Sell. (Ex. 16 to  
21 Duke Partners MTD, ECF No. 14-16). On June 9, 2014, the Federal Deposit Insurance  
22 Corporation (“FDIC”) as Receiver for WMB recorded a Corporate Assignment of Deed of  
23 Trust on the Property, assigning the beneficiary interest in the Deed of Trust to Chase. (Ex. 17  
24 to Duke Partners MTD, ECF No. 14-17). According to the Assignment, the transfer of  
25 beneficiary interest to Chase actually occurred on September 25, 2008. (*Id.*). On July 8, 2014,

1 NDSC recorded a new Notice of Default and Election to Sell. (Ex. 18 to Duke Partners MTD,  
2 ECF No. 14-18).

3 On March 18, 2015, after participating again in the Nevada Foreclosure Mediation  
4 Program, Plaintiffs filed another Verified Petition for Judicial Review in Nevada State Court of  
5 this second Foreclosure Mediation. (Ex. 20 to Duke Partners MTD, ECF No. 14-20). In their  
6 Petition, Plaintiffs asserted that Chase “is not the owner of [Plaintiffs’] mortgage note.” (*Id.* at  
7 4:1). On October 23, 2015, the Nevada State Court denied Plaintiffs’ Petition, instead finding  
8 that Chase “is the current beneficiary under the deed of trust securing the promissory note  
9 evidencing [Plaintiffs’] loan” and “has the authority to enforce the promissory note” on  
10 Plaintiffs’ loan. (Order 4:9–14, *Williams v. JPMorgan Chase Bank*, Case No. A-15-715441-J  
11 (Nev. 8th Jud. Dist. Ct. Oct. 21, 2015); (*see also* Ex. 21 to Duke Partners MTD, ECF No. 14-  
12 21). The Nevada State Court also ordered that a “Foreclosure Mediation Program Certificate  
13 shall issue with respect to the [Plaintiffs’] property.” (Order 5:3–6). The Foreclosure Mediation  
14 Program Certificate was recorded on February 4, 2016. (Ex. 22 to Duke Partners MTD, ECF  
15 No. 14-22).

16 On May 31, 2016, NDSC recorded a Notice of Trustee’s Sale, providing notice to  
17 Plaintiffs that the Property would be sold on June 24, 2016. (Ex. 23 to Duke Partners MTD,  
18 ECF No. 14-23). On July 8, 2016, NDSC recorded a Trustee’s Deed upon Sale conveying the  
19 Property to Duke Partners, the highest bidder at the June 24, 2006 foreclosure sale, for  
20 \$219,200.00. (Ex. 24 to Duke Partners MTD, ECF No. 14-24).

21 On August 5, 2016, Plaintiffs filed the instant Complaint alleging the following three  
22 causes of action: (1) “False Representation concerning Title and Fraudulent Foreclosure”;  
23 (2) Quiet Title; and (3) Intentional Infliction of Emotional Distress. (*Id.* ¶¶ 18–31).

1 **II. LEGAL STANDARD**

2 Federal Rule of Civil Procedure (“Rule”) 12(b)(6) mandates that a court dismiss a cause  
3 of action that fails to state a claim upon which relief can be granted. *See North Star Int’l. v.*  
4 *Ariz. Corp. Comm’n.*, 720 F.2d 578, 581 (9th Cir. 1983). When considering a motion to  
5 dismiss under Rule 12(b)(6) for failure to state a claim, dismissal is appropriate only when the  
6 complaint does not give the defendant fair notice of a legally cognizable claim and the grounds  
7 on which it rests. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). In considering  
8 whether the complaint is sufficient to state a claim, the Court will take all material allegations  
9 as true and construe them in the light most favorable to the plaintiff. *See NL Indus., Inc. v.*  
10 *Kaplan*, 792 F.2d 896, 898 (9th Cir. 1986).

11 The Court, however, is not required to accept as true allegations that are merely  
12 conclusory, unwarranted deductions of fact, or unreasonable inferences. *See Sprewell v. Golden*  
13 *State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001). A formulaic recitation of a cause of action  
14 with conclusory allegations is not sufficient; a plaintiff must plead facts showing that a  
15 violation is *plausible*, not just possible. *Ashcroft v. Iqbal*, 129 S. Ct. 1937, 1949 (2009) (citing  
16 *Twombly*, 550 U.S. at 555) (emphasis added).

17 “Generally, a district court may not consider any material beyond the pleadings in ruling  
18 on a Rule 12(b)(6) motion . . . However, material which is properly submitted as part of the  
19 complaint may be considered” on a motion to dismiss. *Hal Roach Studios, Inc. v. Richard*  
20 *Feiner & Co.*, 896 F.2d 1542, 1555 n.19 (9th Cir. 1990) (citations omitted). Similarly,  
21 “documents whose contents are alleged in a complaint and whose authenticity no party  
22 questions, but which are not physically attached to the pleading, may be considered in ruling on  
23 a Rule 12(b)(6) motion to dismiss” without converting the motion to dismiss into a motion for  
24 summary judgment. *Branch v. Tunnell*, 14 F.3d 449, 454 (9th Cir. 1994). Under Federal Rule  
25 of Evidence 201, a court may take judicial notice of “matters of public record.” *Mack v. S. Bay*

1 *Beer Distrib.*, 798 F.2d 1279, 1282 (9th Cir. 1986). The Court need not accept as true those  
2 allegations that contradict facts properly subject to judicial notice. *Shwarz v. United States*, 234  
3 F.3d 428, 435 (9th Cir. 2000).

4 If the court grants a motion to dismiss for failure to state a claim, leave to amend should  
5 be granted unless it is clear that the deficiencies of the complaint cannot be cured by  
6 amendment. *DeSoto v. Yellow Freight Sys., Inc.*, 957 F.2d 655, 658 (9th Cir. 1992). Pursuant  
7 to Rule 15(a), the court should “freely” give leave to amend “when justice so requires,” and in  
8 the absence of a reason such as “undue delay, bad faith or dilatory motive on the part of the  
9 movant, repeated failure to cure deficiencies by amendments previously allowed, undue  
10 prejudice to the opposing party by virtue of allowance of the amendment, futility of the  
11 amendment, etc.” *Foman v. Davis*, 371 U.S. 178, 182 (1962).

### 12 **III. DISCUSSION**

#### 13 **A. Motions to Dismiss**

14 Defendants assert, *inter alia*, that Plaintiffs’ current claims are barred by res judicata or  
15 collateral estoppel, and otherwise fail to state a claim and should be dismissed under Rule  
16 12(b)(6). (See NDSC MTD 8:2–12:17, ECF No. 12); (Duke Partners MTD 14:21–16:6, 17:3–  
17 20:5, ECF No. 14).

18 Res judicata is an umbrella term that often refers to the concept that a party cannot  
19 relitigate a cause of action or issue that has already been determined by a court. *Executive*  
20 *Mgmt., Ltd. v. Ticor Title Ins. Co.*, 963 P.2d 465, 473 (Nev. 1998). The general rule is that  
21 federal courts must give the “same preclusive effect to state court judgments that those  
22 judgments would be given in the courts of the State from which the judgments  
23 emerged.” *Migra v. Warren City Sch. Dist. Bd. of Educ.*, 465 U.S. 75, 81 (1984) (quoting  
24 *Kremer v. Chem. Constr. Corp.*, 456 U.S. 461, 466 (1982)). Federal courts must apply the res  
25 judicata rules of the court that rendered the underlying judgment. *See id.* at 81–82.

1 “Claim preclusion,” *i.e.*, res judicata, and “issue preclusion,” *i.e.*, collateral estoppel, are  
2 two subspecies of that rule. *Executive Mgmt., Ltd.*, 963 P.2d at 473. Under Nevada law, three  
3 basic elements are required for both doctrines:

4 (1) the issue decided in the prior litigation must be identical to the issue presented in the  
5 current action; (2) the initial ruling must have been on the merits and have become final;  
6 and (3) the party against whom the judgment is asserted must have been a party or in  
privity with a party to the prior litigation.

7 *Id.*; accord *Univ. of Nev. v. Tarkanian*, 879 P.2d 1180, 1191 (Nev. 1994); Restatement  
8 (Second) Judgments § 123 (1995). Whether the prior and current litigation constitute “identical  
9 causes of action” under Nevada law means “whether the sets of facts essential to maintain the  
10 two suits are the same.” *Clements v. Airport Auth. of Washoe County*, 69 F.3d 321, 328 (9th  
11 Cir. 1995) (citing *Tomiyasu v. Golden*, 400 P.2d 415 (Nev. 1965)).

12 Claim preclusion “embraces all grounds of recovery that were asserted in a suit, as well  
13 as those that could have been asserted.” *Tarkanian*, 879 P.2d at 1191. Issue preclusion,  
14 however, has an additional element—the issue in question must have been “actually and  
15 necessarily litigated” in the previous case. *Executive Mgmt., Ltd.*, 963 P.2d at 473. An issue is  
16 necessarily and actually litigated if the “court in the prior action addressed and decided the  
17 same underlying factual issues.” *Kahn v. Morse & Mowbray*, 117 P.3d 227, 235 (Nev.  
18 2005) (citing *LaForge v. State, Univ. & Cmty. Coll. Sys. of Nev.*, 997 P.2d 130, 134 (Nev.  
19 2000)).

20 Plaintiffs’ first claim, false representation concerning title and fraudulent foreclosure  
21 under N.R.S. 205.395, argues that the assignment of the beneficiary interest in the deed of trust  
22 to Chase was fraudulent. (*See* Compl. 16:12–17:18). The identical issue of Chase’s interest  
23 was “actually and necessarily litigated” and decided by the October 23, 2015 Nevada State  
24 Court Order that found: “[Chase] is the current beneficiary under the deed of trust securing the  
25 promissory note evidencing [Plaintiffs’] loan” and “has the authority to enforce the promissory

1 note” on Plaintiffs’ loan. (Order 4:9–14, *Williams v. JPMorgan Chase Bank*, Case No. A-15-  
2 715441-J (Nev. 8th Jud. Dist. Ct. Oct. 21, 2015).<sup>6</sup> This Order was a final ruling on the merits  
3 against Plaintiffs. Accordingly, issue preclusion bars Plaintiffs’ first cause of action, which  
4 therefore must be dismissed with prejudice.

5 As to Plaintiffs’ second cause of action for quiet title, under Nevada law, a quiet title  
6 action may be brought by someone who claims an adverse interest in property. N.R.S. § 40.010.  
7 “In a quiet title action, the burden of proof rests with the plaintiff to prove good title in  
8 himself.” *Breliant v. Preferred Equities Corp.*, 918 P.2d 314, 318 (Nev. 1996). Specifically,  
9 when an adverse claim exists, the party seeking to have another party’s right to property  
10 extinguished, must overcome the “presumption in favor of the record titleholder.” *Id.* (citing  
11 *Biasi v. Leavitt*, 692 P.2d 1301, 1304 (Nev. 1985). Courts within this district have repeatedly  
12 held that a plaintiff who has not discharged the debt owed on the mortgage cannot quiet  
13 title. *See Fuleihan v. Wells Fargo*, No. 2:09-cv-1877-RCJ-PAL, 2010 WL 3724186 at \*5 (D.  
14 Nev. Sept. 15, 2010) (a borrower cannot quiet title to a property without discharging any debt  
15 owed); *Harold v. One West Bank*, No. 2:10-cv-2204-KJD-GWF, 2011 WL 4543998, at \*3 (D.  
16 Nev. Sept. 29, 2011). Plaintiffs do not allege that they have discharged the debt owed.<sup>7</sup>

17 Accordingly, Defendants’ Motion to Dismiss must be granted as to this claim. While the Court  
18 should “freely give” leave to amend, the Court finds that here, because the Nevada State Court

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19  
20 <sup>6</sup> NDSC was not a party to the Nevada State Court Action. However, to the extent that Plaintiffs’ also assert  
21 fraud by NDSC in the substitution of trustee (Compl. 15:18–22), such an assertion is not supported by any  
22 plausible factual allegations in the Complaint. NSDC filed the Notice of Default on behalf of Chase, who the  
23 Nevada State Court determined was the proper beneficiary of the deed of trust to the Property. Further,  
24 Plaintiffs’ conclusory allegations that the substitution was “groundless and . . . invalid” (Compl. 15:13–22) are  
25 belied by the recorded document “Substitution of Trustee.” (*See* Ex. 15 to Duke Partners MTD, ECF No. 14-15);  
*see also Shwarz*, 234 F.3d at 435 (“The Court need not accept as true those allegations that contradict facts  
properly subject to judicial notice.”). As such, any fraud claims against NSDC necessary fail and cannot be  
cured by amendment.

<sup>7</sup> In fact, Duke Partners asserts in its Motion to Dismiss that “Plaintiffs have not made a mortgage payment since  
at least sometime in 2009.” (Duke Partners MTD 19:7–9). Plaintiffs do not address this assertion in their  
Response. (*See* Pls.’ Resp. to MTDs, ECF No. 17).

1 Order found that Chase was the current beneficiary of the deed of trust and allowed the  
2 foreclosure to proceed, the deficiencies of the complaint cannot be cured by amendment. *See*  
3 *DeSoto*, 957 F.2d at 658.

4 Lastly, Plaintiffs’ final claim for intentional infliction of emotional distress must  
5 necessarily fail based on the Nevada State Court Order. The Nevada State Court Order’s  
6 finding that Chase has the authority to enforce the promissory note and is the current  
7 beneficiary clearly refutes Plaintiffs’ claim that Chase (or any Defendants herein, as they are  
8 related to Chase) used “devious highly aggressive tactics” with a “wanton, callous disregard of  
9 the Plaintiffs’ property rights manifested by a devious unrelenting scheme carried out over a  
10 number of years.” (Compl. 22:3–11); *see also Shwarz*, 234 F.3d at 435. As such, the Court  
11 finds that amendment would be futile, and this claim is dismissed with prejudice.

12 Accordingly, the Court grants Defendants’ Motions to Dismiss as to all claims with  
13 prejudice.

#### 14 **B. Vexatious Litigants**

15 Duke Partners additionally seeks to have Plaintiffs labeled as “vexatious litigants”  
16 because they “have already had their day in court[,] . . . [they] have litigated and relitigated  
17 their claims, and are now simply using the Court to harass and delay [D]efendants.” (Mot.  
18 Vexatious Litigants 24:16–19, ECF No. 60).

19 The All Writs Act, 28 U.S.C. § 1651(a), empowers federal district courts to enjoin  
20 vexatious litigants who have a history of abusing the court’s limited resources. *De Long v.*  
21 *Hennessey*, 912 F.2d 1144, 1147 (9th Cir. 1990). Under the All Writs Act, a district court can  
22 order a person with lengthy histories of abusive litigation—a vexatious litigant—to obtain leave  
23 of the court before filing any future lawsuits. *Molski v. Evergreen Dynasty Corp.*, 500 F.3d  
24 1047, 1057 (9th Cir. 2007).

1 “Flagrant abuse of the judicial process cannot be tolerated because it enables one person  
2 to preempt the use of judicial time that properly could be used to consider the meritorious  
3 claims of other litigants.” *De Long*, 912 F.2d at 1148. However, the Ninth Circuit has  
4 cautioned the district courts by recognizing that vexatious litigant orders are an extreme  
5 remedy, and should rarely be entered. *De Long*, 912 F.2d at 1148 (citing *Wood v. Santa*  
6 *Barbara Chamber of Commerce, Inc.*, 705 F.2d 1515, 1523–26 (9th Cir. 1984)). This is  
7 because such an order restricts access to the courts—the litigant’s “final safeguard for vitally  
8 important constitutional rights.” *Wood*, 705 F.2d at 1525. “An injunction cannot issue merely  
9 upon a showing of litigiousness. The plaintiff’s claims must not only be numerous, but also be  
10 patently without merit.” *Moy v. United States*, 906 F.2d 467, 470 (9th Cir. 1990).

11 In deciding whether or not to restrict a litigant’s access to the courts, “[u]ltimately, the  
12 question the court must answer is whether a litigant who has a history of vexatious litigation is  
13 likely to continue to abuse the judicial process and harass other parties.” *Molski v. Mandarin*  
14 *Touch Rest.*, 347 F.Supp.2d 860, 863–64 (C.D. Cal. 2004) (quoting *Safir v. United States Lines,*  
15 *Inc.*, 792 F.2d 19, 23 (2nd Cir. 1986). In doing so, the court should examine five factors:  
16 (1) the litigant’s history of litigation and in particular whether it entailed vexatious, harassing,  
17 or duplicative lawsuits; (2) the litigant’s motive in pursuing the litigation, *e.g.*, does the litigant  
18 have an objective good faith expectation of prevailing?; (3) whether the litigant is represented  
19 by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an  
20 unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be  
21 adequate to protect the courts and other parties. *Id.* at 864.

22 In their Motion, Duke Partners details the lengthy litigation process pursued by Plaintiffs  
23 with regard to the Property, including two Petitions for Judicial Review of Foreclosure  
24 Mediations, an appeal to the Nevada Supreme Court, a first federal district court action that was  
25 also appealed to the Ninth Circuit, and this current second federal district court action. (*See*

1 Mot. Vexatious Litigants 2:20–12:3); (*see also supra* Part I). Duke Partners also asserts that  
2 Plaintiffs “have a lengthy history of using the justice system to harass the parties that oppose  
3 them.” (*Id.* 12:6–6). Duke Partners provides numerous exhibits of harassing letters from  
4 Plaintiffs (Exs. 25, 28–35 Mot. Vexatious Litigants, ECF Nos. 60-25, 60-28–60-35), along with  
5 Affidavits by Casey J. Nelson and Bradley G. Sims, attorneys from Hutchison & Steffen, LLC  
6 who represent Duke Partners, further describing Plaintiffs’ harassment toward them (*see* Exs.  
7 27, 36 to Mot. Vexatious Litigants, ECF Nos. 60-27, 60-36). Plaintiffs’ Response fails to  
8 address the allegations, but rather, it continues to assert Plaintiffs’ belief that their rights have  
9 been violated. (*See* Pls.’ Resp. to Mot. Vexatious Litigants, ECF No. 62).

10 In considering the factors here, first the litigants’ history of litigation with regard to the  
11 Property extends to several cases in both the Nevada state courts and the federal courts. While  
12 the litigants are pro se, and perhaps they have a subjective belief that they will prevail, the  
13 Court cannot find that Plaintiffs have an *objective* good faith expectation of prevailing based on  
14 the previous dismissals by prior courts considering their case. Specifically, after the Nevada  
15 State Court found that Chase was the current beneficiary on the deed of trust, Plaintiffs claims  
16 to the contrary are now “patently without merit.” *See Moy*, 906 F.2d at 470. As to the fourth  
17 factor of the litigants causing needless expense to other parties and posing an unnecessary  
18 burden on the Court, this factor weighs heavily in favor of declaring Plaintiffs to be vexatious  
19 litigants. Plaintiffs filed two emergency motions, which the Court denied, and then filed for  
20 reconsideration of both of the Court’s Orders, along with a frivolous Motion for Default  
21 Judgment, two Motions for Summary Judgment, and numerous other filings to which  
22 Defendants have been required to respond.

23 The Court finds that Plaintiffs should be declared vexatious litigants in regard to  
24 Defendants (including prior defendants from Plaintiffs’ first case in federal district court) and  
25 the matters alleged in this case. Plaintiffs shall be permanently enjoined from filing any further

1 actions or motions in this case or another case against Defendants relating to the Property  
2 without first obtaining leave of the Court. The Court finds that this sanction is adequate to  
3 protect all parties. The Court cautions Plaintiffs that violation of this Order or harassment of  
4 Defendants on these adjudicated claims may result in monetary sanctions, including attorney's  
5 fees, pursuant to Federal Rule of Civil Procedure 11.<sup>8</sup>

6 **IV. CONCLUSION**

7 **IT IS HEREBY ORDERED** that Defendants' Motions to Dismiss (ECF Nos. 12, 14)  
8 are **GRANTED**. Plaintiffs' claims are dismissed with prejudice.

9 **IT IS FURTHER ORDERED** that Defendant Duke Partners' Motion for Vexatious  
10 Litigant (ECF No. 60) is **GRANTED**, to the extent consistent with this Order. Plaintiffs  
11 Ronald and Jann Williams are hereby declared **VEXATIOUS LITIGANTS** and are  
12 **PERMANENTLY ENJOINED** from filing any further actions against the following parties  
13 relating to the subject Property without first obtaining leave of Court: National Default  
14 Servicing Corporation, Michael A Bosco, Wendy Van Luven, Carmen Navejas, Duke Partners  
15 II, LLC, JPMorgan Chase Bank, N.A., Chase Home Finance, LLC, California Reconveyance  
16 Company, Cooper Castle Law Firm, David Sanders, and Lisa Tuck.

17 **IT IS FURTHER ORDERED** that Plaintiffs' Motions to Reconsider (ECF Nos. 56, 72)  
18 are **DENIED**.

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21 <sup>8</sup> Duke Partners also seeks sanctions against Plaintiffs "for filing a frivolous case and to deter the Plaintiffs from  
22 filing any further cases." (Mot. Sanction 1:19-20, ECF No. 42). The Court is not inclined to levy monetary  
23 sanctions against a pro se party without prior notice. The Court finds the imposition of the "vexatious litigant"  
label and the restriction herein to be sufficient to protect Defendants from further litigation on these issues by  
Plaintiffs. Accordingly, Duke Partners' Motion for Sanctions (ECF No. 42) is denied.

24 Similarly, Duke Partners' Ex Parte Motion for TRO is denied without prejudice as moot. As this Order resolves  
25 Plaintiffs' claims, the Court finds that the need for a TRO has been eliminated. However, the Court will deny  
this motion without prejudice, and should Plaintiffs continue to harass Defendants, Plaintiffs are now on notice  
that monetary sanctions may be levied against them.

